

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DONTE SUTTON,

Plaintiff,

v.

M. ALTAMIRANO,

Defendant.

No. 1:23-cv-01633-KES-BAM (PC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS TO GRANT  
DEFENDANT'S MOTION TO DISMISS

Docs. 32, 34

Plaintiff Donte Sutton is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 18, 2025, defendant Altamirano filed a motion to dismiss this action as a terminating sanction based on plaintiff's failure to respond to defendant's discovery requests and failure to comply with the Court's order; or, in the alternative, to compel plaintiff to respond to defendant's discovery request and order defendant's Request for Admissions deemed admitted. Doc. 32. Plaintiff did not file a response or otherwise oppose defendant's motion.

On October 22, 2025, the assigned magistrate judge issued findings and recommendations to grant defendant's motion to dismiss and dismiss this action with prejudice as a terminating sanction and to deny as moot defendant's alternate request to compel plaintiff to respond to defendant's discovery requests and to order defendant's Request for Admissions deemed

1 admitted. Doc. 34. Specifically, the magistrate judge found that plaintiff acted willfully and in  
2 bad faith to avoid responding to written discovery and that the relevant factors for termination as  
3 a sanction weighed in favor of granting defendant's motion to dismiss. *Id.* at 5–8. Those findings  
4 and recommendations were served on the parties and contained notice that any objections thereto  
5 were to be filed within fourteen days after service. *Id.* Neither party has filed objections, and the  
6 time in which to do so has expired. *See* docket.

7 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of  
8 this case and carefully reviewed the file. The Court finds that the findings and recommendations  
9 are supported by the record and by proper analysis.

10 Accordingly:

- 11 1. The findings and recommendations issued on October 22, 2025, Doc. 34, are adopted  
12 in full;
- 13 2. Defendant's motion to dismiss, Doc. 32, is granted;
- 14 3. Defendant's motion for alternate relief is denied as moot;
- 15 4. This action is dismissed with prejudice; and
- 16 5. The Clerk of the Court is directed to close this case.

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19 IT IS SO ORDERED.

20 Dated: December 11, 2025

  
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UNITED STATES DISTRICT JUDGE